

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SHAWN DAMON BARTH,

Plaintiff,

v.

K. SWIWET BINNING, et al.,

Defendants.

Case No. [17-cv-00155-WHO](#) (PR)

**ORDER TO SHOW CAUSE WHY  
THIS SUIT SHOULD NOT BE  
DISMISSED**

Plaintiff Barth is ordered to show cause on or before **February 12, 2018** why this federal civil rights action should not be dismissed for failure to prosecute.

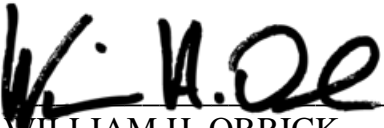
This suit was instituted a year ago and Barth has failed to settle on a final form of his complaint or to follow the directions of the Court. He filed an original complaint, then asked for leave to file an amended complaint. (Dkt. Nos. 1 and 12.) Leave was granted, and he filed a first amended complaint. (Dkt. Nos. 13 and 18.) Then he asked for leave to file a second amended complaint. (Dkt. No. 19.) Leave was granted, as was an extension of time Barth requested. (Dkt. Nos. 20 and 22.) As of the date of this order, Barth has not filed a second amended complaint and the extension of time has expired.

A year's delay is not acceptable. Barth, therefore, must show cause why his suit should not be dismissed. In his response, Barth should include either (1) his second amended complaint; or (2) a request to reinstate either the original or first amended

1 complaint as the operative pleading. His response is due on or before **February 12, 2018**  
2 and must comply in all respects with this order. **No extensions of time will be granted.**  
3 Failure to file an appropriate response by the deadline will result in the dismissal of this  
4 action under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

5 **IT IS SO ORDERED.**

6 **Dated:** January 8, 2018

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8 WILLIAM H. ORRICK  
United States District Judge